

MEMO ENDORSED.

**Office of the New York State
Attorney General**

SO ORDERED.

A handwritten signature in blue ink, appearing to read "O.T. Wang".

Ona T. Wang
U.S.M.J.

Apr. 22, 2025

**Letitia James
Attorney General**

April 14, 2025

Via ECF

Honorable Ona T. Wang
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

RE: *Flores v. Montigny, et al.*, 24 Civ. 2969 (RA)

Dear Judge Wang:

This Office represents Defendant Alden King in the above-referenced action. I write to respectfully request that the Court remove the Local Civil Rule 33.2 ("Rule 33.2") designation from the docket in the instant matter.

By way of background, this matter concerns an incident which occurred on September 9, 2022, while Plaintiff was attempting to avoid arrest for bail jumping. (Dkt. No. 21). Plaintiff claims that he was assaulted during his arrest and subsequently received medical treatment for his injuries. *Id.*¹

On May 1, 2024, the Court determined that Rule 33.2 applies to the instant action. (Dkt. No. 6). However, Rule 33.2 only applies, in relevant part, to matters "arising out of events alleged to have occurred while the plaintiff was in the custody of either the Department of Corrections of the City of New York or the New York State Department of Correctional Services."²

Here, at the time of the allegations, Plaintiff was not in the custody of either the New York State Department of Corrections and Community Supervision or the Department of Correction of

¹ Plaintiff does not specify the location at which the encounter occurred. *Id.* However, according to the arrest report Plaintiff annexed to his Second Amended Complaint, he was arrested in front of 1901 1st Avenue, New York, NY 10029, which is the address for Metropolitan Hospital. *Id.* This is the same hospital where Plaintiff was treated following his arrest. *Id.*

² The Rule 33.2 Interrogatories and Request for Production of Documents form linked by the Court in its May 1, 2024 Order further states that the rule applies to incidents that occurred "while the plaintiff was in the custody of the Department of Correction of the City of New York, the New York State Department of Corrections & Community Supervision, or any other jail, prison or correctional facility operated by or for a city, county, municipal or other local governmental entity." (Dkt. No. 6); *see Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents*, <https://nysd.uscourts.gov/node/831>.

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the City of New York. His encounter with Defendants King and Montigny transpired in a public street rather than in a jail, prison, or correctional facility, (Dkt. No. 21). Therefore, Rule 33.2 appears inapplicable here.

Accordingly, I respectfully request that the Court remove the Rule 33.2 designation from the docket.

I thank the Court for its attention to this matter.

Respectfully,

/s/ Daniel Luedtke

Daniel Luedtke
Assistant Attorney General
(212) 416-8213
daniel.luedtke@ag.ny.gov

Cc: John Andrew Flores, *pro se*
DIN 22B5323
Five Points Correctional Facility
6600 State route 96
Caller Box 119
Romulus, NY 14541³
(Via First Class Mail)

John Andrew Flores, *pro se*
372-833
Hudson County Correctional Center
30 Hackensack Avenue
Kearny, NJ 07032
(Via First Class Mail)

³ A review of Plaintiff's profile on the Incarcerated Lookup database at <https://nysdoccslookup.doccs.ny.gov/> shows Plaintiff is currently incarcerated at Five Points Correctional Facility.